

APPLICANT: GLUKHOVSKY, Arkady
SERIAL NO.: 10/808,573
FILED: March 25, 2004
Page 2

REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

STATUS OF CLAIMS

Claims 37-51 are pending in the application. Claims 37-51 have been rejected.

CLAIM REJECTIONS

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 37-39, 41-46 and 51 under 35 U.S.C. § 103(a), as being unpatentable over Rich et al. (US patent application Publication 2002/0151816, "Rich") in view of U.S. Patent Number 6,285,897 to Kilcoyne et al. ("Kilcoyne '897").

Applicant respectfully traverses the rejection of claims 37-39, 41-46 and 51 under 35 U.S.C. § 103(a) as being unpatentable over Rich in view of Kilcoyne '897.

Regarding independent claim 37 Applicant asserts that neither Rich nor Kilcoyne '897, alone or in combination, teach or suggest at least "determining a gradient between the output of the first and second pH sensors over time; and determining the direction of flow over the distance D based on the gradient" as recited in Applicant's claim 37. Rich does not teach using pH to determine any flow. Rich mentions pH in the context of blood, but only for the purpose of measuring blood pH, not for measuring direction or flow as required in claim 37. Rich, in paragraph 82, cited by the Examiner, discusses using sensors (but not pH sensors) to determine measurements other than *direction* of flow. Thus paragraph 82 of Rich does not teach or suggest determining flow direction.

Kilcoyne '897 cannot cure this deficiency. Kilcoyne '897 since Kilcoyne '897 fails to teach or suggest measuring or determining a direction of flow. Paragraph 3 of Kilcoyne, cited to by the Examiner, discusses the existence of flow of fluids, but not the detection of flow or the determination of the direction of flow.

APPLICANT: GLUKHOVSKY, Arkady
SERIAL NO.: 10/808,573
FILED: March 25, 2004
Page 3

It would not be obvious to combine Rich and Kilcoyne '897 to produce Applicant's claimed invention, as Kilcoyne '897 does not teach determining flow or direction of flow, and thus does not cure the deficiencies of Rich.

Thus, neither Rich nor Kilcoyne '897 alone or in combination, teach or suggest the invention of independent claim 37. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claim 37 under 35 U.S.C. § 103(a) as being unpatentable over Rich in view of Kilcoyne '897.

Regarding independent claim 45 the discussion and arguments made above with respect to independent claim 37 are applicable also here, *mutatis mutandis*. Thus, neither Rich nor Kilcoyne '897 alone or in combination, teach or suggest the invention of independent claim 45. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claim 45 under 35 U.S.C. § 103(a) as being unpatentable over Rich in view of Kilcoyne '897.

Independent claims 37 and 45 are allowable. Each of claims 38-39 and 41-44 depend, directly or indirectly, from independent claim 37 and each of claims 46 and 51 depend, directly or indirectly, from independent claim 45, and include all the limitations of those claims. Therefore, Applicant respectfully asserts that claims 38-39 and 41-44, 46 and 51 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections to independent claims 37 and 45 and to claims 38-39 and 41-44, 46 and 51 dependent thereon.

In the Office Action, the Examiner rejected claims 40, 47 and 48 under 35 U.S.C. § 103(a), as being unpatentable over Rich in view of Kilcoyne et al. (US Patent Application Publication 2004/015138, "Kilcoyne '138") as applied to claims 37-39, 41-46 and 51 and further in view of Meron '774 (US Patent Application Publication 2002/0109774, "Meron").

Applicant respectfully traverses the rejection of claims 40, 47 and 48 under 35 U.S.C. § 103(a), as being unpatentable over Rich in view of Kilcoyne '138 and further in view of Meron. The discussion of Rich and arguments raised above with respect to independent claims 37 and 45 are applicable here also. The discussion of Kilcoyne '897 and arguments made above with respect to independent claims 37 and 45 are applicable also to Kilcoyne '138. Meron does cure the deficiencies of these references. Claim 40 depends, directly or indirectly, from independent claim 37. Claims 47 and 48 depend, directly or indirectly, from independent claim 45.

RECEIVED
CENTRAL FAX CENTER

JAN 18 2007

APPLICANT: GLUKHOVSKY, Arkady
SERIAL NO.: 10/808,573
FILED: March 25, 2004
Page 4

Therefore, Applicant respectfully asserts that claims 40, 47 and 48 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of dependent claims 40, 47 and 48.

In the Office Action, the Examiner rejected claim 50 under 35 U.S.C. § 103(a), as being unpatentable over Rich in view of Kilcoyne '138 as applied to claims 37-39, 41-46 and 51 and further in view of Peterson (US Patent 4200110, "Peterson").

Applicant respectfully traverses the rejection of claim 50 under 35 U.S.C. § 103(a), as being unpatentable over Rich in view of Kilcoyne '138 and further in view of Peterson.

As discussed, claim 45 is allowable over Rich and Kilcoyne '138. Peterson does not cure the deficiencies of Rich and Kilcoyne '138. Claim 50 depends from claim 45 and therefore includes all its limitations. Therefore, Applicant respectfully asserts that claim 50 is likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection to dependent claim 50.

Conclusion

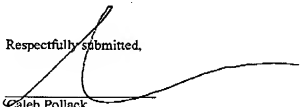
Applicant submits that in view of the foregoing remarks, and for at least the reasons presented above, claims 37-51 are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this paper, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

APPLICANT: GLUKHOVSKY, Arkady
SERIAL NO.: 10/808,573
FILED: March 25, 2004
Page 5

Except for the fees for the RCE and petition for extension of time, being requested separately, no fees are believed to be due associated with this paper. However, if any fee is in fact due, please charge any such fee associated with this paper to deposit account No.50-3355.

Respectfully submitted,


Caleb Pollack
Attorney for Applicant
Registration No. 37,912

Dated: January 16, 2006

Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, NY 10036
Telephone: 646-878-0800